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Exhibit 8 Environmental Justice

Expert Testimony of Francisco Da Costa and Bob Sarvey

SFERP Testimony of Francisco Da Costa and Bob Sarvey

The Applicant on page 4-1 of his testimony identifies that Southeast San Francisco has a disproportionate number of industrial and polluting facilities. The Applicant also recognizes that the minority community in Southeast San Francisco has an extraordinarily high rate of childhood asthma and other serious respiratory diseases. Even though the city has admitted these facts they now want to site the SFERP in the Community. Not only does the City want to site the SFERP in Southeast San Francisco they are also adding and expanding many more industrial polluting facilities in close proximity to the SFERP. The Bode Gravel and Mission Valley Rock facilities are expanding. The Hanson Aggregate facility is also expanding. The Nor Cal recycling facility is expanding. The Muni Bus parking and repair facility has yet to be completed and the Illinois street bridge project is still under construction. No air quality traffic impacts assessment has been provided for the Illinois Street Bridge project which will pour tons of particulates and toxics on the minority community. Many other facilities are currently being developed under the San Francisco Southern Waterfront EIR. The applicant also has plans for the following future port development:

Cargo Shipping. The Port's two container terminals, at Pier 80 and Pier 94-96, would potentially accommodate increased cargo shipping activity consisting of handling of both containerized and non-containerized cargo. The project therefore would include movement of approximately 200,000 TEU[2] of new cargo (beyond existing volumes of approximately 50,000 TEU) in addition to the cargo activity associated with the Industry Group leases. Of the 200,000 new TEU, 30,000 TEU is assumed to be accommodated by 2001, another 20,000 TEU by 2003, and 150,000 additional TEU by 2015. Cargoes may be containerized or bulk, depending on demand from shippers.

Dredge Material Handling Site. The Port has recently begun storing material dredged from the Bay during routine maintenance dredging from Piers 35, 80, and 96. (The Port also uses storage sites in the East Bay.) Currently, dredge material is placed by crane onto the pier deck within a temporary three-acre enclosure at Pier 96 and allowed to drain and partially dry (to about 20 percent moisture content) before being hauled by truck to landfills, where it is used as daily cover for solid waste landfilling operations. The (drained) decant water is discharged to the Bay. The Port plans to expand this operation and move it to Pier 94, where it would occupy up to about five acres of unpaved land north of the paved pier apron. At the new site, about 20,000 cubic yards of dredge material per year would be pumped from a barge into the drying area. It is anticipated that the off-hauling by truck of partially dried dredge materials would occur over a period of about two weeks during the year. Trucks would travel on Amador Street.

Piers 90-94 Backlands. This approximately 50-acre area would potentially be developed with a mix of about 650,000 square feet of light industrial uses and approximately 1 million square feet of commercial office and/or research and development uses. Office and/or research and development uses would be anticipated to occur in two- to three-story buildings that would be expected to include landscaped open spaces as part of an overall site plan.

Pier 70. The project analyzed in this SEIR includes development of approximately 200,000 square feet of new Maritime Industrial uses and an additional 200,000 square feet of General Industrial uses within the 55-acre Pier 70 Maritime Reserve Area. The Waterfront Plan includes Maritime Industry among the uses related to waterborne commerce and navigation. Maritime Industry could also include Maritime Support uses such as equipment storage and warehousing uses. The Plan defines General Industry as "facilities for enclosed and open air industrial activities, including but not limited to: recycling operations, automobile repair and related services, bio-remediation, sand and gravel operations, transmission facilities, and manufacturing operations."

Pier 70 Mixed-Use Opportunity Area. The project analyzed in this SEIR includes development of this 16-acre area, between 18th and 21st Streets and extending one to three blocks east of Illinois Street. It is anticipated that uses in this area would include a mix of uses, including approximately 610,000 square feet of commercial office and/or research and development space; 100,000 square feet of retail and other commercial space; and 240,000 square feet of public access and recreational maritime uses. The Port plans to issue a Request for Proposals to potential developers of the Pier 70 Mixed-Use Opportunity Area in late 2000. (An alternative considered in this SEIR would include housing on a portion of the Pier 70 Mixed-Use Opportunity Area.)

Western Pacific Property. This site, a former rail yard east of Illinois Street between 25th and César Chávez (Army) Streets, will be partially occupied by a Muni Metro maintenance and storage facility that will be constructed as part of the soon-to-be undertaken Third Street Light Rail Extension project. The Muni Metro facility was analyzed in the EIR/EIS for the Light Rail Project, and will occupy about three-fourths of the approximately 25-acre Western Pacific Property. No specific development projects are forecast for the remainder of the Western Pacific Property. However, as part of the project analyzed in this SEIR it is assumed that part of the remainder of this site would be occupied by General Industrial uses, potentially including construction-related uses such as materials storage, on an interim basis.

This development is occurring under the applicant's authority within six miles of the project yet the applicant refuses to do a cumulative impact assessment or a cumulative toxic health risk assessment on the impacts to the minority low income community. The cumulative impacts assessment is the cornerstone of any environmental justice analysis yet here the applicant refuses to analyze the impacts of the numerous projects that it is siting within six miles of the project area. The applicant bears the burden of proof that these cumulative impacts are not considerable in a community that it has admitted has a disproportionate number of industrial and polluting facilities with accompanying health impacts.

The applicant attempts to justify the siting of the SFERP in its testimony in Section 4.0 of the application for certification. The applicant states that the SFERP will enable the closure of the Hunters Point Power Plant. The SFERP will have no effect on the closure of the Hunters Point Power Plant. On March 15, 2006 the CPUC approved resolution E-3984 (http://www.cpuc.ca.gov/PUBLISHED/AGENDA_RESOLUTION/54404.htm#) which authorizes the closure of the Hunters Point Power Plant upon the completion of the Jefferson Martin Project and the Hunters Point- Potrero Transmission upgrades. The Hunters Point Power Plant will be closed in June of 2006 before the SFERP is even approved by the CEC. The SFERP has no connection to the closure of the Hunters Point Power Project.

Secondly the applicant speculates that the SFERP will allow for the closure of the Potrero Power Plant by releasing it from its RMR agreement. The CAL-ISO has clearly stated that are many inherent risks in the closure of the Potrero Power Plant. Cal-ISO has identified the following risks in its October 24,2004 letter to the applicant.

1) The original design and subsequent configuration of the power system in San Francisco was based on more local generation versus imported generation. The Action Plan moves away from the original design in the area, and therefore creates greater dependency on imported energy. This increased dependency translates into understanding that a loss of a transmission circuit(s) supplying the SF area may result in customer power outages in situations wherein the remaining amount of local generation may be insufficient to eliminate. In short, the customer demand on the Peninsula at a peak load period is estimated at 1,970 MW in 2007. Local generation, assuming full use of the planned City peaking power plants, without both Hunters Point and Potrero, and assuming all the transmission enhancements outlined in the action plan are completed, will be approximately 192 MW. The difference (nearly 1,800 MW) is the amount upon which the peninsula will be dependent upon the transmission system. Risks are potentially small that multiple transmission outages will occur during peak periods, but it should be understood that choosing to minimize the amount of local generation thereby minimizes the choices available during emergency conditions such as loss of a transmission circuit(s).

2) The reality of all generation is that at one point or another the units will trip off-line or break down. Again, without having more local generation immediately available, dependency on imports is increased. In other words, while the minimum planning criteria will have been met, the loss of the associated operational flexibility carries risk under peak load/multiple equipment outage scenarios.

3) Greater dependency on external generation as opposed to local generation also carries with it a greater risk in areas that are prone to natural disasters. Natural disasters such as earthquakes, fires, and hurricanes play havoc with power lines. Much like bridges, transmission lines can fail in natural disasters, thereby isolating customers from their generation when that generation is not local.

4) While every effort has been made to model San Francisco's projected energy requirements, there remains a number of potential projects that may notably increase the City's energy needs over and above that currently forecast. An example is the proposed cruise ship terminal where the ships would be required to interconnect with the Control Grid to operate while in port instead of relying on their 10 MW diesel generators that would pollute the area. Each 10 MW ship would consume the margin that was allowed in the Action Plan for one year's load growth. Activities such as this will require more generation to

operate, and hasten the need for more projects to serve this volume of load.

5) There are load-dropping schemes in place to assure compliance with the Reliability Criteria for critical double contingencies. Reducing San Francisco generation, as outlined in the Action Plan, may result in the need to increase the amount of load that is shed in the San Francisco Peninsula Area to mitigate line overloads for these critical double contingencies.

The action plan endorsed by the city calls for the net loss of over 300 megawatts of in city generation which poses severe reliability risks to the City. Even if the project does make a contribution to the release of Potrero from its RMR contract the applicant has no control of Mirants power plant and has no agreement with Mirant (Answer to Data Request CARE 3.4-2) to close any of the units down. Mirant is a merchant power generator with a legally licensed power plant and its costs of production are considerably less that the SFERP. Least cost best fit principles in the resource adequacy requirements for PGE in the PUC procurement proceeding favor the use of the Mirant project. The Potrero 3 unit which has been recently retrofitted has increased the value of Mirant's asset and is likely to keep the plant producing far into the future

The extremely high cost of the SF Peakers output approximately $115 per Megawatt hour makes it very uncompetitive in the retail electricity market. The high costs of the SFERP will burden the minority ratepayer and taxpayer in South San Francisco. The annual capacity payments to the applicant will be passed through as DWR charges on the minority ratepayers utility bills. If the project runs less than its proposed license the annual capacity payment makes the project costs per megawatt soar adding an additional burden to the minority ratepayer. If the Applicant cannot cover the costs of the project the burden again falls partially on minority ratepayers through additional general fund expenditures.

The SFERP is supposed to offset all emissions and toxics from the project to enhance Environmental Justice. The project provides no mitigation for the projected 2.7 tons of SO2 per year but the applicant proposes to mitigate PM 2.5 emissions with SO2. The applicant provides no mitigation for the 27.9 tons per year of CO emissions. The project provides no mitigation for the 39.2 tons of ammonia per year that has the potential to form a significant amount of PM 2.5. The project proposes to offset the NOx emissions with ERC's that were produced in 1985 from the Potrero project. It is inconceivable that NOx reductions that are 20 years old are going to benefit the minority residents in the area. The NOx ERC's do not satisfy the CEQA obligations of the project and may not even comply with the clean air act. The proposed PM-10 reduction plan consists of a street sweeping program that will be ineffective during the winter months when PM 2.5 levels are the highest because of the rainfall and high moisture content of the ambient air in the months of November to February. The street sweeping

project allegedly will eliminate 3.2 tons of PM 2.5 leaving 12 tons of PM 2.5 unmitigated. The applicant proposes to mitigate the rest of the PM 2.5 with SO2 credits in violation of the cities LORS. The proposed offset package will not mitigate the projects impacts for the lifetime of the project. The proposed mitigation package does not meet any of CCSF ordinances regarding new generation in Southeast San Francisco.

Southeast San Francisco also has a disproportionate burden of toxic and hazardous waste frailties and sites in San Francisco. The Bayview Hunters Point area and Potrero area have 52% of the active underground storage tanks, 33% of the wastewater treatment plants, and both of the power plants in San Francisco. Of the 5 facilities that store enough ammonia to require a risk management plan four are located in Southeast San Francisco. Environmental justice considerations require a cumulative hazardous materials transportation risk assessment. The Potrero Project has recently upgraded its pollution control system with SCR necessitating the largest ammonia storage facility in San Francisco less than a half mile from the proposed SFERP. The applicants and the Staffs analysis on ammonia transportation considers only fatalities and not serious injuries and hospitalizations that may occur from an ammonia transportation accident and the risk is multiplied when one considers that almost all ammonia transportation has its destination in Southeast San Francisco. Both applicant and staff fail to quantify the risks from transportation of other hazardous materials which have the potential to impact the minority community in Southeast San Francisco. A maximum quantity of 38,815 gallons and 100 pounds of hazardous substances will be stored onsite at any given time leading to the transportation of these materials through Southeast San Francisco. No analysis of these transportation risks or the cumulative transportation risks and impacts to low income minority residents has been performed for the project.

Section 4.5 of the Environmental Justice section of the AFC touts that the applicant is doing local monitoring to determine if the project area has higher impacts. The applicant then lists the results in table 8.1-24 of the AFC but fails to list the most important pollutant of concern PM 2.5. An analysis of the BAAQMD website demonstrates that PM 2.5 levels at the Bayview monitoring station are 5 to 10% higher that the Arkansas Street station. (Exhibit 3) PM 2.5 is the one pollutant that the applicants PM-10 program fails to mitigate and the one pollutant that has the highest health impacts.

Section 3.4.2 of the AFC states that the SFERP will facilitate the reduction of NOx emissions thereby promoting environmental justice. The reduction of NOx a regional pollutant will not facilitate environmental justice in the project area. In fact the SFERP has a PM2.5 per Megawatt hour emission rate twice as high as the Potrero 3 Project. The applicant admits in his testimony that the SFERP will have impacts on both the Potrero and Bayview Communities.

In conclusion the SFERP does nothing but add another pollution source in Southeast San Francisco.

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Exhibit 9

Expert Testimony of Francisco Da Costa Cultural Resources

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Exhibit 10 Purpose and Need
Environmental Justice
Expert Testimony of Robert Sarvey ratepayer and taxpayer impacts

SFERP Testimony Purpose and Need and Environmental Justice Robert Sarvey

The applicant testifies on page 3-10 that the SFERP will support affordable electric bills. The applicants internal documents provided under data requests by Community Power show that DWR has estimated that the price per Megawatt for the SFERP will be $115. Average peak energy prices for the City of San Francisco from the applicant's internal documents are expected to be around $60.00 a megawatt. The average cost of the SFERP will be twice the cost of the average energy price for the City and three times the average for all PGE customers. The ratepayers will also be required to subsidize the cost of the four LM-6000 units from the Williams settlement estimated at a value of 25 to 50 million. The ratepayer must also carry the cost of the 13.9 millions dollars the applicant was provided to site the combustion turbines. The exorbitant costs of this generation will be passed on to the ratepayers through DWR charges on their utility bills. Should the applicant lose money on the production of electricity after the first ten years of operation the taxpayers of San Francisco will have to subsidize the operation of the SFERP through the general fund.

The DWR will provide the applicant with an approximately $13,000,000 capacity payment per year whether the project runs 1 or 4,000 hours. The capacity payment must be equally divided between each megawatt of power produced. If the project runs only a few hours a year the average megawatt price soars. A current example of this is the GWF Peaker Plant located in Tracy, California. The Tracy Peaker Plant will receive a estimated $37,225,000 Capacity payment http://wwwcers.water.ca.gov/original_contracts.cfm for 2004 and the project produced a total of 7,596 megawatts (http://www.gwfpower.com/tpp_ops_data.htm) for a price of $4900.00 a Megawatt not including the variable overhead and maintenance and the fuel allowance supplied by DWR. In 2005 the Tracy Peaker project received a capacity payment of $ 35,383,000 http://wwwcers.water.ca.gov/original_contracts.cfm and produced 9,972 (http://www.gwfpower.com/tpp_ops_data.htm megawatts at an average price of $3,548 a megawatt not including variable overhead and maintenance and the natural gas supplied by DWR The cost to the ratepayer per megawatt could be astronomical and the applicant is

predicting the project will not run its permitted hours. The DWR will also pay for the natural gas and variable overhead and maintenance payments for the SFERP for the first ten years in addition to the capacity payments which covers all of the bond debt and a fixed overhead and maintenance payments.

The project will cost at a minimum twice the average price of peak power for the city. If the project fails to run its projected hours the price per megawatt will skyrocket. After the expiration of the DWR contract the SFERP which is not competitive in the retail electricity market because of its simple cycle configuration could negatively impact the City's general fund. The CEC's projected levelized cost per kilowatt for a combined cycle plant is $5.18 a kilowatt while a simple cycle plant has a levelized cost of $15.71 per kilowatt. http://www.energy.ca.gov/electricity/levelized_cost.html The SFERP will not support affordable electrical bills.

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Exhibit 11

Testimony of Robert Sarvey Hazardous Materials

Hazardous Material Testimony of Bob Sarvey

Southeast San Francisco has a disproportionate burden of toxic and hazardous waste facilities and sites in San Francisco. The Bayview Hunters Point area and Potrero area have 52% of the active underground storage tanks, 33% of the wastewater treatment plants, and both of the power plants in San Francisco. Of the 5 facilities that store enough ammonia to require a risk management plan four are located in Southeast San Francisco. Environmental justice considerations require a cumulative hazardous materials transportation risk assessment. The Potrero Project has recently upgraded its pollution control system with SCR necessitating the largest ammonia storage facility in San Francisco less that a half mile from the proposed SFERP. The applicant in the Potrero 7 Project testified "The CEC should consider the environmental justice implications of transporting and storing large quantities of hazardous materials in Southeast San Francisco an area with a significant minority and low income population." Despite that testimony the applicant has not done an assessment to evaluate the implications of the transportation and storage of large quantities of hazardous materials in Southeast San Francisco even with the SCR Retrofit of Potrero 3 and the proposed addition of the SFERP.

The CCSF DPH LORS require a design guideline for ammonia exposure of 35ppm at the fence line of a new facility. The project will not comply with this standard. In the event of a catastrophic ammonia release the project will expose employees at the Muni Maintenance Center to ammonia concentrations as high as 2,000 ppm which is a fatal dose. The project proposes to place alarm bells to alert employees of a catastrophic release. New or untrained employees may not be familiar with the emergency release protocol.

The applicants and the Staffs analysis on ammonia transportation considers only fatalities and not serious injuries and hospitalizations that may occur from an ammonia transportation accident and the risk is multiplied by the Potrero 3 retrofit and the addition of the SFERP. Both applicant and staff fail to quantify the risks from transportation of other Hazardous materials which have the potential to impact the minority community in Southeast San Francisco. A maximum quantity of 38,815 gallons and 100 pound of hazardous substances will be stored onsite at any given time leading to the transportation of these materials through Southeast San Francisco. No analysis of these transportation risks or the cumulative transportation risks and impacts to low income minority residents has been performed for the project.

Both the CEC Staff and applicants analysis fails to examine the entire ammonia transportation route in their risk analysis which understates the probability of an accident. The entire transportation route must be analyzed to evaluate the risks from hazardous materials transportation.

The following conditions of certification would reduce the projects hazardous materials impacts to the community and Muni Maintenance Facility workers.

Intervenor Haz-1 The project owner shall utilize a urea based ammonia on demand system to supply ammonia to the SCR unit. The project owner will not transport aqueous ammonia to the site.

Intervenor Haz-2 in the event aqueous ammonia is used the project owner will utilize a double walled ammonia storage tank or an underground storage tank.

Intervenor Haz-3 In the even the project owner shall use aqueous ammonia the aqueous ammonia concentrations will be limited to 20 percent by volume.

Intervenor Haz-4 The project will be designed so that ammonia concentrations will not exceed 35ppm at the fence line of the project to comply with DPH design guidelines.